

No. 3877

1317

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IN THE  
**United States Circuit Court of Appeals**  
**For the Ninth Circuit**

WILLIAM KLEIN, et al.,

*Appellants,*

vs.

CHARLES PETER, et al.,

*Appellees.*

**Transcript of the Record**

*Upon Appeals from the United States District Court  
of the District of Idaho, Eastern Division.*

FILED



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*Upon Appeals from the United States District Court  
of the District of Idaho, Eastern Division.*

NAMES AND ADDRESSES OF ATTORNEYS  
OF RECORD.

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HOMER H. BOARDMAN,  
Oklahoma City, Okla.,  
RICHARD H. JOHNSON,  
CAREY H. NIXON,  
Boise, Idaho,  
*Attorneys for Appellants.*

D. D. MOTE,  
Attorney for J. M. Stevens,  
Pocatello, Idaho,  
P. C. O'MALLEY,  
Attorney for Mascot Mining & Milling Co.,  
Ltd. of Idaho, a Corporation,  
Pocatello, Idaho,  
*Attorneys for Appellees.*

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*In the District Court of the United States for the  
District of Idaho, Eastern Division.*

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William Klein, John Picha, Fred Kamp, William F. Kamp, Henry Kamp, Henry E. Hanstein, Albert E. Will, M. J. Dallmeyer, A. J. Dallmeyer, F. J. Tullius, Henry Walsh, Mattie McLennan, W. J. Weiche, and . . . Weiche, his wife; John Hetzel, Frank Manning, Frank P. Zurline, Louie Thieme, Rudolph Schier, John W. Wolfe, Roy C. Wolf, Fanny M. Wolf, George H. Reding, William Graefe, Albert Coleman, J. H. Pruitt, Paul Brueschke, H. Eden, Mrs. Henry Schwarze, Henry C. Kamp and Margaret Kamp, his wife; Ernest Kamp, Elsie Kamp, W. A. Burtschi, W. J. Burtchi, David Scheihing, John Swirzinski, Mrs. W. Winstanley, T. F. Hansen, Anna Hansen, Mrs. A. Murray, G. W. Burmeister, Frank Vorpal, George Schwab, H. W. P. Wolf, Joel Sprunger, Martha Sprunger, Omer Sprunger, Elda Sprunger, Albert Sprunger, Irene Sprunger, A. G. Messall, Henry Knippelmeier, Peter Wolf, Nicholas Reding, William Sieber, Caroline Sieber, Albert Moeller, Joseph Vondran, H. H. Carter, C. Arnold, Theodore Von Elm, Michael Reding, E. C. Wolf, Henry C. Wolf, L. Eden, Mrs. A. H. Wolf, J. W. Pickard, John Bolton, Mrs. A. D. Frascoli, William Borchers, John Thiessen, F. Schaefermolte, August Bliefernich, William Berger, John Keller, Jack Keller, Fred Schielow, A. A. Knoch, C. Keller, A. C.

Boekle, E. R. Alpert, Frank H. Knoche, Frank H. Knoche, Fred Homrighausen, Paul Alpert, Arthur E. Ninman, H. E. Palmer, William Huesmann, Mrs. T. J. Rasp, J. W. Lorenzen, Frank Dale, J. C. Goggerty, Mrs. George Loeffelholz, Dan Schader, Jacob Rott, F. M. Mozer, John Hummel, Herman Meilke and H. Kappus, John Lorenzen, Robert G. Koerner, Elizabeth Kastner, G. L. Knoche, M. H. Seldelbach and William Fedderson,

*Complainants,*

vs.

Charles Peter, J. M. Stevens, A. J. Weber, Arthur H. Freber, W. R. Calvert, Frank Van der Linde, William Jacobsen, R. E. Roser, Ferdinand Walther and the Mascot Mining & Milling Company, Ltd., of Idaho,

*Defendants.*

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No. 307.

### COMPLAINT IN EQUITY.

Comes now the above named complainants and for their cause of action herein, allege and state:

(1) That this is a suit in equity of a civil nature arising wholly between citizens of different states, and that the matter in controversy in this action exceeds, exclusive of interest and costs, the sum and value of three thousand (\$3,000.00) Dollars.

(2) That the complainants herein, to-wit: William Klein, John Picha, Fred Kamp, William F. Kamp, Henry Kamp, Henry E. Hanstein,



Albert E. Will, M. J. Dallmeyer, A. J. Dallmeyer, T. J. Tullius, Henry Walsh, Mattie McLennan, W. J. Weiche and . . . . Weiche, his wife; John Hetzel, Frank Manning, Frank P. Zurline, Louie Thieme, John W. Wolf, Roy C. Wolf, Fanny M. Wolf, George H. Reding, Albert Coleman, J. H. Pruitt, H. Eden, Mrs. Henry Schwartze, W. A. Burtchi, W. J. Burtchi, David Scheihing, John Swirzinski, Mrs. W. Winstanley, T. F. Hansen, Anna Hansen, Mrs. A. Murray, G. W. Burmeister, George Schwab, H. W. P. Wolf, A. G. Messall, Henry Knippelmeier, Peter Wolf, Nicholas Reding, William Sieber, Caroline Sieber, Albert Moeller, Joseph Vondran, H. H. Carter, C. Arnold, Theodore Von Elm, Michael Reding, E. C. Wolf, Henry C. Wolf, L. Eden, Mrs. A. H. Wolf, J. W. Pickard, John Bolton, Mrs. A. D. Frascoli, William Borchers, John Lorenzen, Robert G. Koerner, Elizabeth Kastner, John Thiessen, M. H. Seldeback, William Fedderson, Arthur E. Ninmann, H. E. Palmer, William Huesmann, Mrs. T. J. Rasp, J. W. Lorenzen, Frank Dale, J. C. Goggerty, Mrs. George Loeffelholz, Dan Schader, F. M. Mozer, John Hummel and H. Kappus, are and for a long time past have been citizens, residents and inhabitants of the State of Oklahoma.

(3) That the complainants herein, to-wit: Rudolph Schier, is and for a long time past has been a citizen, resident and inhabitant of the State of Arkansas.

(4) That the complainants herein ,to-wit: William Graefe, is and for a long time past has been a citizen, resident and inhabitant of the State of Colorado.

(5) That the complainants herein, to-wit: Paul Brueschke, Henry C. Kamp and Margaret Kamp, his wife, Ernest Kamp, Elsie Kamp, August Bliefferrich, William Berger, John Keller, Jack Keller, C. Keller, Fred Schielow and Jacob Rott are and for a long time past have been residents, citizens and inhabitants of the State of Missouri.

(6) That the complainant, A. A. Knoch, is and for a long time past has been a citizen, resident and inhabitant of the State of Ohio.

(7) That the complainant herein, Frank Vorphal, is and for a long time past has been a citizen, resident and inhabitant of the State of Wyoming.

(8) That the complainants herein, to-wit: Omer Sprunger, Joel Sprunger, Martha Sprunger, Elda Sprunger, Albert Sprunger and Irene Sprunger are and for a long time past have been citizens, residents and inhabitants of the State of Oregon.

(9) That the complainants herein, to-wit: F. Schaefermolte, A. C. Boehle, E. R. Alpert, Frank H. Knoche, J. W. Knoche, Fred Homrighausen, Paul Alpert, G. L. Knoche and Herman Mielke, are and for a long time past have been citizens, residents and inhabitants of the State of Kansas.

(10) That the defendant, the Mascott Mining & Milling Company, Ltd., of Idaho, is a corpora-

tion duly organized and existing under and by virtue of the laws of Idaho, with a pretended place of business at Pocatello in said state, but at all times mentioned in this supplemental and amended complaint has maintained and conducted its principal place of business at Salt Lake City, Utah, as is hereinafter alleged and set forth in this supplemental and amended complaint.

(11) That the defendant herein, Charles Peter, is and has been at all times herein mentioned, a citizen, resident and inhabitant of the State of Utah.

(12) That the defendants herein, A. J. Weber and Arthur H. Freber are and for a long time past have been citizens, residents and inhabitants of the State of Utah.

(13) That the defendant herein, W. R. Calvert, is and for a long time past has been a citizen, resident and inhabitant of the State of Utah.

(13a) That the defendant herein, Frank Van der Linde, is and for a long time has been a citizen, resident and inhabitant of the State of Utah.

(13b) That the defendant herein, William Jacobsen, is and for a long time past has been a citizen, resident and inhabitant of the State of Utah.

(13c) That the defendant herein, R. E. Roser, is and for a long time has been a citizen, resident and inhabitant of the State of Idaho.

(14) That the defendant herein, Ferdinand Walther, is and for a long time past has been a

citizen, resident and inhabitant of the State of Illinois.

(15) That the defendant herein, J. M. Stevens, is and for a long time past has been a citizen, resident and inhabitant of the State of Idaho.

(16) That on or about the 4th day of September, A. D. 1915, and thereafter for a period of time extending until the filing in this Court of this supplemental and amended complaint in equity, the defendants herein named, to-wit: Charles Peter, J. M. Stevens, A. J. Weber, Arthur H. Freber, W. R. Calvert, Frank Van der Linde, William Jacobsen, R. E. Roser and Ferdinand Walther did then and there, to-wit: on or about the 4th day of September, 1915, and thereafter during the entire period of time extending to the date of the filing of this supplemental and amended complaint, with the intent to wrong, cheat and defraud each and all of the complainants herein named and the public generally, all of whom are hereinafter called and designated "the victims", unlawfully, wrongfully, fraudulently and feloniously confederate, conspire and agree by and among themselves and each of them to the effect that said defendant and each and all of them would and should and did then and there plan, formulate and devise a certain scheme to defraud the complainants herein and the public generally, the nature, tenor, purpose, effect and character of which was and is as follows, to-wit:



That the said Charles Peter would and should obtain and procure certain mining claims and properties in the State of Idaho, or elsewhere, of little or no value, and that thereafter he would and should incorporate or cause to be incorporated a corporation to be known as the Mascot Mining & Milling Company of Utah, with an authorized capital stock of \$600,000.00; and that thereafter he would or should convey and transfer unto the said Utah Corporation, the said mining claims and properties as aforesaid, at and for a valuation of approximately \$300,000.00; and that he and said conspiring defendants would and should receive therefor the capital stock of said Utah corporation in the amount of approximately 300,000 shares, for all of which shares the said conspiring defendants would and should pay nothing of value to said Utah corporation, in this, to-wit: that at said time the said Charles Peter would and should procure said mining claims and properties in Idaho as aforesaid, of little or no value, with the money of other persons, and that in the procuring and obtaining of said claims and properties the said Charles Peter would and should obtain and procure the money with which to purchase the same by fraud and deceit, and by false representations to other persons, as hereinafter set forth, by then and there representing and pretending that the said property and claims would and should cost and be of the value of \$53,000.00, when in truth and in fact, the said de-

fendant, Charles Peter, would and should obtain and procure the same for the sum of \$2,000.00, or less.

And that thereupon, in the creation and organization of the Mascot Mining & Milling Company of Utah, the said defendant, Charles Peter, would and should associate with him, in the incorporation thereof and in the management and the Board of Directors thereof, certain persons, to-wit: M. Barnett, Frank Moormeister, Paul Vantinke and Robert Reich, all of whom would and should be associated with the said Charles Peter, with the intent and for the purpose of misleading and deceiving the said victims into believing that the care and management of the said Utah corporation was in the hands of competent and honest officers and directors, when in truth and in fact, the entire management and control of the affairs of said Utah corporation would and should be vested in the said Charles Peter, for the purpose of cheating and defrauding said victims; and the said associates of the said Charles Peter would and should only be nominal officers and directors with no real duties or responsibilities, their names being used by the said Charles Peter as part of the defendants' scheme to cheat and defraud said victims.

And that thereafter the said Charles Peter, having the confidence of his said associates as aforesaid, would and should be designated and elected and installed as the president and general manager

of said Mascot Mining & Milling Company of Utah; and that thereupon the said Charles Peter and his co-conspirators would and should by letters and newspapers, and printed pamphlets, publications and circulars to be sent and delivered through the United States mails, and by verbal representations and statements of themselves and their agents, falsely and fraudulently pretend, represent and state to the victims herein that the said mining claims and properties in Idaho, of little or no value as aforesaid, were of great value as mining property; and as aforesaid would and should represent and state that by reason of the said Utah corporation being the owner of said claims and property, that the capital stock of said corporation also was a great value and was a valuable investment, and would and should pay large dividends to the public generally purchasing the same, and that the money and funds derived from the sale of the capital stock of said Utah corporation would and should be used to make and develop a mine upon the said property of said Utah corporation and to thereafter equip and operate the same in good faith for the use and benefit of the shareholders of said Utah corporation generally; and that the said Charles Peter and his co-conspirators would and should as aforesaid, through the United States mails and by and through themselves personally, and by and through certain agents, sell shares of the capital stock of said Utah corporation to said

victims and the public generally; and that thereafter said Charles Peter and his co-conspirators would and should, in the maner aforesaid, falsely and fraudulently represent and state to the victims who had purchased shares of stock in said Utah corporation and its shareholders to increase the capital stock of the said Utah corporation to \$1,000,000 by the organization of a new and separate corporation with and authorized capital stock of \$1,000,000 to be named the Mascot Mining & Milling Co., Ltd., of Idaho, and that in the organization of said Idaho corporation the said Charles Peter would and should associate with him as incorporators, officers, and members of the Board of Directors, certain persons, to-wit: John W. Choate, M. L. Sternberh and the defendant herein J. M. Stevens, all of whom would and should be associated with the said Charles Peter with the intent and for the purpose of misleading and deceiving the said victims into believing that the care and management of the Idaho corporation was in the hands of competent and honest officers and directors, when in truth and in fact the entire management and control of the affairs of said Idaho corporation would and should be vested in the said Charles Peter and his co-conspirators for the purpose of cheating and defrauding said victims; and the said associates of said Charles Peter would and should only be nominal officers and directors with no real duties or responsibilities, their names being



used by the said Charles Peter as part of the said defendants' scheme to cheat and defraud said victims. And that thereupon the said Charles Peter, having the confidence of his said associates as aforesaid, would and should be designated, elected and installed as the president and general manager of said Idaho corporation; and that thereupon the said mining claims and properties of the said Utah corporation would and should be conveyed and transferred to the said Idaho corporation at a fictitious and fraudulent valuation of \$650,000.00, payable in stock of the Idaho corporation to the stockholders of the Utah corporation; and that thereupon the said Charles Peter and his co-conspirators would and should by letter, newspapers, printed pamphlets, publications, and circulars to be sent and delivered through the United States mails and by verbal representations and statements of themselves and their agents, falsely and fraudulently pretend, represent and state to the victims herein that the mining claims and properties owned by the said Idaho corporation and formerly owned by the said Utah corporation as aforesaid, were of great value as mining properties; and as aforesaid would and should represent and state that by reason of the said Idaho corporation being the owner of said claims and properties, that the capital stock of said corporation also was of great value and a valuable investment, and would pay large dividends to the victims and the public generally purchasing

the same, and that the money and funds derived from the sale of the capital stock of said Idaho corporation would and should be used to make and develop a mine upon the said properties of said Idaho corporation, and thereafter to equip and operate the same for the use and benefit of the shareholders of the said Idaho corporation generally and that the said Charles Peter and his co-conspirators would and should as aforesaid, through the United States mails, and through themselves personally and through agents, sell shares of the capital stock of the said Idaho corporation to the said victims and to the public generally.

That the said Charles Peter and his co-conspirators upon the organization and incorporation of the said Idaho corporation, would and should falsely and fraudulently, and without consideration, issue or cause to be issued to themselves in their names and in the names of other persons for the benefit of said conspiring defendants, large amounts of the capital stock of the said Idaho corporation, being approximately in the sum and amount of 500,000 shares or more, for which the said Charles Peter and said co-conspirators would and should neither pay nor give anything of value to the said Idaho corporation.

That the said defendant, Charles Peter, and his co-conspirators would and should unlawfully, wrongfully and fraudulently issue or cause to be issued to themselves without consideration, suffi-

cient amounts of the capital stock of the said Utah corporation to the said Idaho corporation, for the purpose and in order that he, the said Charles Peter and his said co-conspirators would and should at all times have issued and outstanding in their names, for their individual use and benefit a sufficient amount of the capital stock of said corporation to promote and execute said scheme to defraud, and for the purpose, and in order that the said defendant, Charles Peter, and his co-conspirators, at all time would and should have a control and sufficient amount of the capital stock of said corporations to retain the control and management of the affairs of said corporations, and the selection of its Board of Directors in order to further carry out said fraudulent scheme to defraud from time to time; and for all of said capital stock of said corporations pay nor give anything of value to the said corporations.

And that all of the capital stock of the said corporations sold or caused to be sold by the said Charles Peter and his co-conspirators as hereinafter set forth, to the victims, would and should at all times be worthless and without value and would and should not participate in profits or dividends of said corporations, even in the event that the said mining claims and properties aforesaid should prove to be of great value.

And that he, the said Charles Peter, and his co-conspirators during the existence of said fraudu-

lent scheme to defraud, would and should for the purpose of carrying the same further into effect, create and organize, separate and distinct mining company or companies of which the said Charles Peter and his con-conspirators would and should control and be the owners of the capital stock of such company or companies, and would and should be the chief and principal owners of such stock, and which said separate mining company or companies so owned and controlled by the said consiprators, would and should sell and transfer unto the said Utah corporation, and unto the said Idaho corporation, certain alleged mining claims or properties of little or no value and receive therefor large sums of money from the said Utah corporation and from the said Idaho corporation, and that thereby the money and funds of the victims herein received from the sale of the capital stock of said Utah and Idaho companies would and should unlawfully, wrongfully and fraudulently obtained and converted by the said conspiring defendants, and the said Utah and Idaho corporations receive nothing of value therefor.

(17) That the said defendants' scheme to defraud as set forth in paragraph 16 hereof, was and is false and fraudulent and untrue, and at all times known to the said defendant to be false and fraudulent and untrue, in this, to-wit:

That the mining claims and properties to the said Idaho corporation, formerly owned by the said



Utah corporation, were not of great value as mining property, but in truth and in fact were of little or no value; and that the capital stock of the said Utah corporation and the capital stock of the said Idaho corporation were not of great value, nor did the same constitute a valuable investment, but in truth and in fact was at all time without value and worthless; and that such stock would and should at all times be worthless and without value as to said victims; and that neither the said Utah corporation nor the said Idaho corporation would under any circumstances pay dividends to the victims and the public generally purchasing its capital stock; and that the money and funds derived from the sale of the capital stock of the said Utah corporation, and the capital stock of the said Idaho corporation would not and should not be used to make and develop a mine upon said mining claims and properties, nor would the same be used to equip and operate a mine for the use and benefit of the shareholders of said corporations; and that it was not to the best interests of the shareholders of the said Utah corporation to increase its capital stock by the organization of the Idaho corporation and the transfer of its mining claims and properties to said Idaho corporation, and that instead of intending to in good faith organize and promote and build a mining company to engage in a general mining business, as represented to the victims herein, the said defendants at all times mentioned here-

in intended to unlawfully, wrongfully and fraudulently cheat and defraud the said victims by selling to the said victims their individual shares of the capital stock of said corporations and also the individual shares of stock of others upon which they would and should obtain options at low prices and thereafter sell to the victims herein at high prices, and to thereafter retain and keep and convert the money and funds derived from the sale of all said shares of stock to their individual use and benefit.

And that the said defendants intended that at all times they would and should only use and expend upon the said mining claims and property, sufficient amount of money for development to make a showing, and a false and fraudulent pretense to the victims herein that the said companies, through their management were in good faith trying to develop and mine said property. And that at all times herein the said defendants intended that only a very small portion of the capital stock of said companies would and should be sold from the treasury stock, and that the proceeds and money obtained from the stock sold, whether the individual stock of the said defendants or others, or from the treasury stock of the companies, would and should be obtained, received and used by the said defendants individually, and by them converted to their own use and benefit, except such small sums and amounts as were by the said defendants deemed advisable to be expended upon the mining claims and

property aforesaid to deceive the victims, and further promote the said defendants' scheme to defraud as aforesaid.

And that said defendants at all times intended that if at any time during the existence and execution of their said scheme to defraud it would or should be determined or discovered that the said mining claims and properties of the said Idaho corporation, formerly owned by the said Utah corporation, were of sufficient richness in ore and minerals to prove of sufficient value to make a mine upon which to build and maintain a mining company in good faith, that then in such event the rights and interests of the said victims, as evidenced and represented by their said shares of the capital stock of said corporations, would and should be cancelled and destroyed and their shares of stock rendered worthless and valueless by reason of unlawful, wrongful and fraudulent claims which should be made by the said Charles Peter and his co-defendants against said Utah and Idaho corporations for alleged sums of money which the said Charles Peter and his co-defendants would and should wrongfully, unlawfully and fraudulently claim to be due to them from said corporations; and by reason of mortgage liens to secure the same and the foreclosure thereof which the said Charles Peter and his co-defendants would and should wrongfully, unlawfully and fraudulently obtain upon said mining claims and property; and by reason of unlawful,

wrongful and fraudulent assessments which the said Charles Peters and his co-defendants would and should make or cause to be made upon the shares of the capital stock of said corporation held by the victims herein; and by reason of unlawful, wrong and fraudulent suits for receiverships which would and should be brought and instituted for the individual use and benefit of the said defendants in aid of their said fraudulent scheme to defraud, and to deprive the victims herein of their rights, titles and interests in and to said properties.

(18) That pursuant to the said defendants' scheme to defraud as aforesaid, and in order to affect the purposes thereof and execute the same, the said Charles Peter did, together with other persons, to-wit: M. Barnett, F. Moormeister, Paul Van Tinke and Robert Reich, create, organize and incorporate, by making, acknowledging and filing in the office of the Secretary of State of Utah on the 4th day of September, 1915, Articles of Incorporation, whereby the Mascott Mining & Milling Company of Utah was duly incorporated with a capital stock of \$600,000.00, divided into 600,000 shares of the par value of \$1.00 each; and that thereupon the said Charles Peter, having the confidence of his said associates as aforesaid, was designated, elected and installed as the president and general manager of the said Utah corporation.

And that thereafter, he, the said Charles Peter, sold and transferred to the said Utah corporation,



four patented mining claims of little or no value, names as follows, to-wit: Oregonian, Silver Fortune, Snow Clad, and the P. K., located and situated in Blaine County, Idaho; for which he issued or caused to be issued to himself, 300,000 shares of the capital stock of said Utah corporation, and from which he transferred or caused to be transferred to his said associates approximately one thousand shares each.

(19) That the issuance of the said 300,000 shares of the capital stock of the said Utah corporation to the defendant herein, Charles Peter, was and at all times has been false, fraudulent, wrongful and invalid in that the said Charles Peter did not then and there, or at any time pay, give, or transfer to the said corporation anything of value therefor; and that the said 300,000 shares of the said capital stock was so issued or caused to be issued by the said Charles Peter to himself for and without consideration therefor, and that said stock was so issued to said Charles Peter for said conspirator's benefit in that execution of their said scheme to defraud.

(20) That at the time the said Charles Peter transferred and conveyed the said mining claims to said Utah corporation they were of little or no value, having been purchased and acquired by him, the said Charles Peter, with the money, in the sum of \$2,000.00 wrongfully and fraudulently obtained by the said Charles Peter by fraud and deceit from

his associate Frank Moormeister, upon the representation by the said Charles Peter to the said Frank Moormeister that said claims were of the value and would cost the sum of Fifty-three thousand (\$53,000.00) Dollars; all of which representation was then and there false and fraudulent and untrue in that the said Charles Peter had then and there procured the said mining claims, for the sum of only \$2,000.00.

(21) That upon the organization and incorporation of the said Utah company, the said conspiring defendants wrote, sent, authorized and caused to be written, printed and sent letters, newspapers, printed pamphlets, publications and circulars, by and through the United States mails, by reason of which, and also by verbal representations and statements of themselves and certain agents, the names of whom the complainants are at this time unable to state, falsely and fraudulently pretended, represented and stated to the victims herein, that the said mining claims and properties in Idaho were of great value as mining property, and that by reason of the said Utah corporation being the owner thereof that the capital stock of said corporation also was of great value, and was a valuable investment and would pay large dividends to the victims and the public generally purchasing the same, and that the money and funds derived from the sale of the capital stock of said Utah corporation would and should be used to make and develop a

mine upon the said property of said Utah corporation and to thereafter equip and operate the same in good faith for the use and benefit of the shareholders for the said Utah corporation generally, and that your complainants herein, and all the victims herein, relied upon and believed to be true, the representations and statements made and caused to be made by said defendants, personally, and by and through certain agents, and by and through certain written and printed letters, newspapers, pamphlets, publications and circulars, sent and delivered through the United States mails, and all of which representations and statements, being then and there false, fraudulent and untrue, and the same being heretofore set forth in detail in paragraph 21 hereof, and so relying and believing, did heretofore upon certain dates which your complainants are at this time unable to state, purchase from the said Charles Peter and his co-conspirators approximately 6500 shares of the capital stock of the Utah corporation, and for which they paid said conspirators the sum of approximately \$6500.00 in cash, all of which said conspiring defendants then and there converted to their own use and benefit.

(22) That between the 4th day of September, 1915, and the 5th day of March, 1916, the said defendants issued or caused to be issued 430,600 shares of the capital stock of said Utah corporation, including the original issue to Charles Peter of said 300,000 shares, and all of which were by

the said conspirators, intentionally, wrongfully and fraudulently issued or caused to be issued without consideration to themselves and others for the purpose of further executing their said scheme to defraud by selling the same to the complainants and victims herein, and the public generally, not for the use and benefit of the said defendant corporation, but for the individual use and benefit of said conspirators and for the use and benefit of said conspirators in allowing and permitting them to have and control a sufficient amount of the capital stock of the said corporation to keep them in the control and management thereof.

(23) That the complainants herein are at this time unable to state the exact sums or amounts of money which the said defendant, Charles Peter and his co-defendants procured and obtained from the victims herein, and wrongfully and fraudulently converted to their own use and benefit, but in relation thereto, according to their best knowledge, information and belief, they allege the fact to be that from the sales of all of said capital stock of said Utah corporation as aforesaid, the said Charles Peter and his co-conspirators wrongfully, unlawfully and fraudulently received and converted to their own use and benefit the sum of \$21,000.00, or more, and the said Utah corporation and the victims herein received nothing.

(24) Your complainants further allege and state that between the 4th day of September, 1915,



and the 6th day of March, 1916, the said defendant, Charles Peter, was under and by virtue of the terms of the said defendants conspiracy and scheme to defraud, the general manager and president of the affairs of said Utah corporation, including the sale of its capital stock and the receipts and disbursements of the money and funds derived therefrom, and that the said defendant, Charles Peter, as such President and General Manager, and with the aid, consent, connivance and knowledge of his co-conspirators, and in order to effect the common design and purpose of said conspiracy and scheme to defraud, did wrongfully, unlawfully and fraudulently neglect and fail to manage and conduct the affairs of the said Utah corporation on behalf and in the interest of its shareholders and victims herein, but on the other hand did at all times intentionally, knowingly, unlawfully, wrongfully and fraudulently conduct the affairs of the said Utah corporation for his own individual use and benefit and private gain and for the individual use and benefit and private gain of his said co-conspirators.

(25) That from the time of the organization and incorporation of the said Utah company, on or about the 4th day of September, 1915, up until the creation, organization, and incorporation of the Idaho company on or about March 6th, 1916, the said defendant herein, Charles Peter, and his said co-conspirators then and there at all times having the entire control and management of the said Utah

company; wholly and entirely, wrongfully, unlawfully and fraudulently failed and refused to properly and competently mine or develop the mining claims and property then owned, as aforesaid by said Utah company; but, on the other hand, only caused such work to be done or pretended mining activity to be shown as was by them deemed necessary and advisable to deceive the complainants and victims herein, in order that the said scheme to defraud would not be by them discovered, and to aid them in the further execution of this scheme to defraud; and that during all of said time no ore was mined or milled or sold by the said Utah corporation and no profits or gain made by it, and that during all of said time the said defendant, Charles Peter, and his co-conspirators, in order to effect the common design of said conspirators and to aid in the execution of said scheme to defraud, wholly and entirely, wrongfully, unlawfully and fraudulently refused and neglected in any manner to use the money and funds derived from the sale of its stock or any part thereof toward the development and making of a mine upon its said mining claims and property, and that under the said management and control of said Utah corporation by the said Charles Peter, and his co-conspirators on or about March 6, 1916, the said Utah corporation had outstanding or issued, capital stock to the extent and amount of 430,600 shares, and had no money or funds in the treasury, was wholly and entirely and hopelessly

insolvent and unable to conduct business with its said properties wholly and entirely undeveloped; and at that time had standing against it upon its books an alleged, false and untrue and fraudulent indebtedness in the sum of \$21,724.25, which indebtedness was then and there incorrect, unjust and fraudulent, and then and there claimed by the defendant herein, the said Charles Peter, as a valid indebtedness against said Utah corporation for and on account of money claimed and alleged by the said defendant, Charles Peter, to have been loaned in good faith by him individually to said Utah corporation, when in truth and in fact said alleged indebtedness was, as aforesaid, fictitious, untrue, false and fraudulent, and created and claimed by the said defendant, Charles Peter, as part of and in aid of said scheme to defraud.

(26) That thereafter, on or about the 6th day of March, 1916, the said defendant herein, Charles Peter and his co-defendants wrongfully, unlawfully and fraudulently represented and stated to the complainants and victims, and shareholders of the said Utah company that it was to their best interests and to the best interests of the said Utah company that its capital stock be increased to \$1,000,000.00 by the organization of a new and separate corporation under the laws of the State of Idaho, and that the said Charles Peter and his co-defendants then and there having the confidence of said shareholders, complainants and victims, did

thereupon cause to be created, organized and incorporated corporation known and described as the Mascot Mining & Milling Company, Ltd., of Idaho, with an authorized capital stock of \$1,000,000.00, each share of the par value of \$1.00; and that thereupon the said Charles Peter, defendant herein, pursuant to said conspiracy was designated, elected and installed as the president and general manager of said Idaho corporation.

(27) That on or about the 6th day of March, 1916, the said defendants herein, Charles Peter, together with his co-defendants, having the exclusive charge, control, and management as aforesaid of the said Utah corporation, and also of the said Idaho corporation, unlawfully, wrongfully, and fraudulently cause all of the mining claims and property of the said Utah corporation, including the four patented claims named and referred to in paragraph 18 hereof, and other mining claims and property, all of which being of little or no value, to be transferred and conveyed unto the said Idaho corporation at a wrongful, fictitious and fraudulent valuation of \$650,000.00, payable in stock of the said Idaho corporation to the then shareholders of the said Utah corporation in proportion to their interests in said Utah corporation.

(28) That between the said 6th day of March, 1916, and the present time, the said defendant, Charles Peter, and his co-conspirators issued or caused to be issued, 831,127 shares of the capital



stock of the said Idaho corporation, including an issue to said Charles Peter of 200,000 shares, for the use and benefit of the conspirators herein, in addition to the proportion thereof to which they claimed to be entitled on account of the number of shares in their names in the said Utah corporation at that time, and all of which your complainants allege and state were by the said defendants wrongfully, unlawfully and fraudulently issued or caused to be issued to themselves without consideration for the purpose of further executing their said scheme to defraud, by selling the same to the complainants and the victims herein and the public generally for the individual use and benefit of the conspiring defendants, and for their use and benefit in allowing and permitting them to have and control a sufficient amount of said capital stock to keep them in the control and management of said Idaho corporation and that the said defendants gave nothing of value for said stock.

That upon the organization and incorporation of the said Idaho corporation, the conspiring defendants wrote, sent, authorized, and caused to be written, printed and sent, letters, newspapers, printed pamphlets, publications, and circulars, by and through the United States mails, by reason of which, and also by verbal representations and statements of themselves and certain agents, the names of whom complainants are at this time unable to state, falsely, wrongfully and fraudulently pre-

tended, represented and stated to the complainants and victims herein, that the said mining claims and properties of the said Idaho corporation were of great value as mining property and that by reason of said Idaho corporation being the owner thereof, that the capital stock of the said corporation also was a valuable investment and would pay large dividends to the victims and the public generally purchasing the same, and that the money and funds derived from the sale of the capital stock of said defendant corporation would and should be used to make and develop a mine upon the said property of said defendant corporation and to thereafter equip and operate the same in good faith for the use and benefit of the shareholders of the said defendant corporation generally, and that your complainants herein, and all the victims herein, relied upon and believed to be true, the representations and statements made and cause to be made by said defendants personally, and by and through certain agents, and by and through certain written and printed letter, newspapers, pamphlets, publications and circulars, sent and delivered through the United States mails, and all of which representations and statements, being then and there false, fraudulent and untrue, and the same being heretofore set forth in detail in paragraph 28 hereof, and so relying and believing, did heretofore, upon certain dates which your complainants are at this time unable to state, purchase from the said Charles

Peter and his co-conspirators approximately 200,000 shares of capital stock of the Utah and defendant corporations and for which they paid the said Charles Peter who was then and there president, general manager and a director of said corporation, and his co-conspirators, the sum of approximately \$200,000.00 in cash, all of which said conspirators then and there converted to their own use and benefit.

(29) That the complainants herein at this time are unable to state the exact sums or amounts of money which the said conspirators procured and obtained from the complainants and victims herein by the sales of said capital stock in said Idaho corporation, and wrongfully, unlawfully, and fraudulently converted to their own use and benefit; but in relation thereto, allege and state the fact to be that according to their best knowledge, information and belief, from all of the sale of the said capital stock of said Idaho corporation, as aforesaid, the said defendants wrongfully, unlawfully, and fraudulently received and converted to their own use and benefit the sum of approximately \$200,000.00, or more, and the said Idaho corporation received nothing.

(30) Your complainants further allege and state that according to their best information, knowledge, and belief, between the 16th day of March, 1916, and the present time, the said defendant, Charles Peter, was the president and general

manager and together with his co-conspirators had exclusive control and management of all the affairs of the said Idaho corporation, including the sale of its capital stock and the receipt and disbursement of the money and funds derived therefrom; and that by reason thereof the said defendant, Charles Peter and his co-conspirators *was* able to and did wrongfully, unlawfully, and fraudulently neglect and fail to manage and conduct the affairs of the said Idaho corporation on behalf of and in the interest of its shareholders, including the complainants and victims herein; but on the other hand, did at all times intentionally, knowingly, unlawfully, wrongfully, and fraudulently conduct the affairs of the said Idaho corporation for the individual use and benefit, and private gain of said conspirators.

(31) That from the time of the organization and incorporation of the Idaho company, on or about the 6th day of March, 1916, up until the present time, the said defendant herein, Charles Peter, and his co-conspirators, then and there at all times having the entire control and management of the said Idaho company, wholly and entirely, wrongfully, unlawfully, and fraudulently failed and refused to competently and properly mine or develop the said mining claims and property owned by the said Idaho corporation; but on the other hand only caused such work to be done or pretended mining activity to be shown, as was by them deemed necessary and advisable to deceive the com-



plainants and the victims herein, in order that the said scheme to defraud would not be by them discovered, and to aid them in the further execution of their said scheme to defraud; and that during all of said time no ore was mined or milled or sold by the said Idaho corporation and no profit or gain made by it; and that during all of said time the said defendant, Charles Peter, and his co-conspirators wholly and entirely, wrongfully, unlawfully, and fraudulently refused and neglected in any manner to use the money and funds derived from the sale of its stock or any part thereof towards the development and making of a mine upon its said mining claims and property, and that under the said management and control of said Idaho corporation by the said Charles Peter and his co-conspirators, on or about July 31, 1920, the said Idaho corporation had outstanding or issued capital stock to the extent and amount of 831,127 shares, and had no money or funds in the treasury; was wholly and entirely and hopelessly insolvent and unable to conduct business, and its said properties wholly and entirely undeveloped; and at that time had standing against it upon its books an alleged false, and untrue and fraudulent, indebtedness in the sum of \$77,425.96, which indebtedness was then and there incorrect, unjust and fraudulent, and then and there claimed by the said defendant, Charles Peter, as a valid indebtedness against said Idaho corporation for and on account of money

claimed and alleged by the said Charles Peter and to have been loaned in good faith by him individually to said Idaho corporation, when in truth and in fact said alleged indebtedness was, as aforesaid, fictitious, untrue, false and fraudulent, and created and claimed by the said defendant, Charles Peter, as part of and in aid of said scheme to defraud.

(32) That on or about the 11th day of January, 1917, the said defendant, Charles Peter, together with the defendant herein, J. M. Stevens, and other persons, created, organized and incorporated under the laws of the State of Idaho, a corporation known and designated as the Terra Mining & Milling Company, with an authorized capital stock of \$500,000.00, divided into 500,000 shares of the par value of \$1.00 each.

And that at said time and at all the times herein mentioned, the said defendants Charles Peter and J. M. Stevens, and other persons, for the use and benefit of the conspirators herein, controlled the said corporation and were the owners of the capital stock thereof; and that the said Charles Peter and J. M. Stevens were two of the chief and principal owners of said stock and entitled to share largely in the profits of said company.

And that thereafter, on or about the . . . . day of . . . . ., A. D., . . . ., the exact or correct date your complainants herein are unable to state, the said defendant, Charles Peter, and his co-conspirators then and there having the management and

control of the said Idaho corporation as aforesaid, and also being the principal owners of and having control and management of the said Terra Mining & Milling Company aforesaid, negotiated and consummated a sale by and between themselves as the chief and principal owners of the said Terra Mining & Milling Company, and themselves as the chief and principal owners and manager of said Idaho corporation, whereby the said Terra Mining & Milling Company transferred and conveyed unto the said Idaho corporation six mining claims in Blaine County, Idaho, a more detailed or definite description of which the complainants are unable to state, but all of which said mining claims involved in said transaction, the complainants allege and state were at said time of little or no value, and for which the said Idaho corporation paid to the said Terra Mining & Milling Company the sum of \$30,000.00 as follows, to-wit: 20,000 shares of the capital stock of the said Idaho corporation, which said 20,000 shares were transferred at a valuation of \$10,000.00; and \$20,000.00 in cash each, all of which, or the principal part of which said purchase price of \$30,000.00 as aforesaid, was by such manner and means received and accepted by the said defendant, Charles Peter and his co-conspirators and converted to their own use and benefit, and for which the said Idaho corporation received only such said six mining claims of little or no value; and all of which the complainants herein allege and

state, and according to their best knowledge, information and belief, were acquired by the said Charles Peter and his co-conspirators on behalf of said Terra Mining & Milling Company for a sum not to exceed \$1500.00.

And that according to the best knowledge, information and belief of your complainants herein, the said defendant, Charles Peter, and his co-conspirators, together with other persons, caused to be organized, created and incorporated, said Terra Mining & Milling Company, not for the purpose of in good faith promoting, building and maintaining a general mining business thereby, but that the said conspirators might use said Terra Mining & Milling Company and its name with the intent and for the purpose of deceiving the complainants and victims herein into believing that the transactions had been between the Idaho corporation and the said Terra Mining & Milling Company were in good faith, legitimate, honest and honorable transactions, and to conceal as far as could be done from the complainants and victims herein the fact that in purchasing the property for the Idaho corporation from the Terra Mining & Milling Company at excessive and fraudulent valuations and prices that the said conspirators were thereby unlawfully, wrongfully and fraudulently accepting, retaining and converting to his own use and benefit the money and funds of the complainants and victims, and the said Idaho corporations.



(33) That from and after the 4th day of September, 1915, and up until the present time, the defendant herein, Charles Peter, for and on account of his alleged service to said Utah corporation and to the said Idaho corporation, as the president and manager thereof, unlawfully, wrongfully, and fraudulently paid to himself from the moneys and funds belonging to said corporation, the sum of \$6,836.00 in cash, and \$6,940.00 in stock, all of which the said Charles Peter unlawfully, wrongfully and fraudulently converted to his own use and benefit, and for all of which he paid nothing of value to said corporation, and for all of which he rendered no service to said corporations.

(34) That on or about the 25th day of August, 1920, the said defendant, Charles Peter, and his co-conspirators having the entire management and control of the said Idaho corporation, by reason of owning and controlling a majority of the outstanding shares of its capital stock, which were then and there illegally and unlawfully held in their names and in the names of others, and having paid nothing of value therefor, at a shareholders' meeting held at Pocatello, Idaho, passed and caused to be passed a resolution directing and authorizing the Board of Directors, who were then and there also contemporaneously elected and chosen by the said conspirators to the effect that the false and fraudulent claim of said defendant, Charles Peter, in the sum of \$77,524.96 be allowed and approved

and that said conspirators as the said Board of Directors of the defendant corporation be and were authorized to execute and deliver to the said Charles Peter, the Idaho corporation's promissory note or notes in like amount, secured by first mortgage lien upon all of said mining claims and properties owned in the name of the said Idaho corporation; and that at said meeting aforesaid and in the manner aforesaid, the said conspirators passed and caused to be passed and adopted a resolution, purporting to change and alter the by-laws of said Idaho corporation to the effect that all of its capital stock should be thereafter assessable instead of fully paid and non-assessable as it then existed, and both of which resolutions your complainants herein allege and state were illegal, unlawful, wrongful and fraudulent, also so passed or caused to be passed and adopted by the said conspirators as aforesaid, not in good faith for the purpose of securing the payment of the legitimate indebtedness of said corporation and raising money and funds with which to carry on in good faith a general mining business, but on the other hand were so passed and caused to be passed and adopted by the said conspirators, wrongfully, unlawfully and fraudulently for the express and specific purpose of depriving, destroying and cancelling all of the right, title and interest of the complainants herein in and to said Idaho corporation and its properties, or compelling them to pay his said unlawful and fraudulent

claim and recognize and continue his wrongful unlawful, and fraudulent management of said Idaho corporation.

(35) That pursuant to said defendants' conspiracy and scheme to defraud herein set forth, and in order to effect the purpose thereof and execute the common design thereof and in order to unlawfully, wrongfully and fraudulently cheat and defraud the complainants herein and deprive them of all their right, title and interest in the property and assets of the defendant corporation as shareholders thereof, the said defendant conspirator herein, Ferdinand Walther instituted a certain action in the district court of the Fifth Judicial District of the State of Idaho in and for the county of Bannock, entitled case No. . . . ., Ferdinand Walther, plaintiff vs. Mascott Mining & Milling Company, a corporation, defendant, by filing in said court and in said cause his complaint as such plaintiff and therein wrongfully, falsely and fraudulently representing and claiming and stating that the said defendant corporation aforesaid was indebted to him in the sum of \$5594.95, with interest and also that said defendant corporation was indebted to its president and general manager, to-wit: the defendant herein, Charles Peter, in approximating the sum of \$83,000.00 and that said defendant corporation was insolvent, inactive and without income, money, funds, or property of any kind or description except certain non-producing mining

claims and also praying for a judgment against said defendant corporation for the amount of his alleged claim, and for judgments and orders allowing the said alleged claims of said defendant Charles Peter, and for the appointment of a receiver for the purpose of winding up the affairs of the defendant corporation and selling said defendant corporation's mining claims for the purpose of paying his alleged claim and the alleged claim of the said defendant, Charles Peter aforesaid.

That the statements and allegations contained in said complaint and said action to the effect that the defendant corporation was indebted to the plaintiff in the sum aforesaid, was and is false, fraudulent and untrue, and known to all the conspirators herein at all times to be false, fraudulent and untrue, and that in truth and in fact, the said defendant corporation was and is not indebted to the said Ferdinand Walther in any sum whatsoever, and that the said alleged cause of action of the said Ferdinand Walther based upon said claim was and is false, fraudulent, fictitious and untrue.

That the statement and allegation contained in said complaint in said action to the effect that the defendant corporation was indebted to its said president and general manager, to-wit, the defendant herein, Charles Peter in approximately the sum of \$83,000 was and is false, fraudulent, fictitious and untrue and at all times known to all of said conspirators to be false, fraudulent; fictitious and un-



true, and that in truth and in fact the said defendant corporation was not and is not indebted to the said defendant, Charles Peter in any sum whatsoever.

In relation to the allegations contained in said complaint to the effect that said defendant corporation was insolvent, inactive and without money or funds, the complainants allege and state that such conditions existed and were caused to be existed by the conspirators herein as a result of and for and on account of their said conspiracy and scheme to defraud and all of their acts and conduct hereinbefore set forth in carrying said scheme into effect and executing the same.

Your complainants further allege and state that the defendants herein, Charles Peter and Ferdinand Walther and his co-conspirators did then and there and at all times well know that the said alleged claims as set forth in said complaint in said cause were false, fraudulent and untrue, but that nevertheless in order to fully and completely cheat and defraud the complainants herein, pursuant to said conspiracy and scheme to defraud, and in order to deprive complainants of all their right, title and interest in and to the property and assets of the defendant corporation, the said defendant corporation in said cause of action pending in said district court of Bannock County, Idaho, aforesaid, acting by and through its president and general manager and its directors, to-wit: the defendant, Charles



Peter and Ferdinand Walther and their co-conspirators, wrongfully, unlawfully, fraudulently and intentionally failed, refused and neglected to contest said cause of action, and by reason thereof permitted and caused to be entered and rendered without competent or truthful evidence or testimony of any kind or character, an order appointing the defendant, E. S. Sloane as a receiver of said defendant corporation, a true and correct copy of said order being hereto attached, marked "Exhibit A" and by this reference made a part hereof, and thereafter unlawfully, wrongfully and intentionally failed, neglected and refused to contest said cause of action, and filed and caused to be filed therein its written confession of judgment in favor of the plaintiff therein to-wit: the conspirators herein Ferdinand Walther and against the defendant corporation, said written confession of judgment admitting and confessing as true the false, fraudulent, fictitious and untrue claims of the said conspirators, Ferdinand Walther, in said action and that by reason of said conspiracy, wrongfully, unlawfully, fraudulently and intentionally failed, refused and neglected to contest said cause of action, whereby a final judgment of said district court of Bannock County, Idaho, was made and entered in said cause of action, a true and correct copy of which being hereto attached, marked "Exhibit B" and by this reference made a part hereof, and that by reason of the said defendants' conspiracy in fail-

ing, neglecting and refusing to contest said cause of action and wrongfully and fraudulently in the manner aforesaid permitting said final judgment "Exhibit B" to be made and entered, there was also thereafter on the 31st day of May, 1921, an order for receiver's sale made and entered in said cause of action, a true and correct copy of the same being hereto attached, marked "Exhibit C" and by this reference made a part hereof.

(36) Your complainants further allege and state the fact to be that said orders and final judgments therein, "Exhibits A, B and C" were and are obtained by the said conspiring defendants herein unlawfully and fraudulently as hereinbefore set forth, and that the same are and constitute false, fraudulent and fictitious orders and judgments, and in truth and in fact are not legal nor binding upon any of the parties to the said action in which they were made and entered, and that the same should be set aside, cancelled and held for naught.

(37) That all the complainants herein were shareholders of said defendant corporation, to-wit: the Mascot Mining & Milling Company, Ltd., of Idaho, at the time of the transactions of which the complainants complain herein, and that this suit is not a collusive one to confer on a court of the United States jurisdiction of a cause of which it would not otherwise have cognizance.

(38) That the conspirators herein, to-wit: Charles Peter, J. M. Stevens, A. J. Weber, Arthur

H. Freber, W. R. Calvert, Ferdinand Walther, Frand Van der Linde, William Jacobson and R. E. Roser, are and constitute the board of directors and managing officers of the said defendant corporation, to-wit: The Mascot Mining & Milling Company, Ltd., of Idaho, and that said defendant corporation is wholly and exclusively managed and controlled by said conspirators herein, and that none of the complainants herein nor victims nor any other person have any right, privilege or authority in connection with the management and conduct of the affairs of said defendant corporation, and that by reason thereof and the facts generally heretofore set forth in this complaint, your complainants further allege and state to the court that it would of necessity be futile, unavailing and an idle ceremony for them to have first made a request of the said conspirators as said directors and managing officers of the defendant corporation or of said fraudulently appointed receiver to bring this action prior to its institution by the complainants herein.

(39) Your complainants further allege and state that from and with the moneys and funds unlawfully, wrongfully and fraudulently obtained from them by the conspirators herein in the execution of their conspiracy and scheme to defraud, the defendant Charles Peter, invested a part and portion of the complainants' moneys and funds so unlawfully, wrongfully and fraudulently received and

obtained by him, the exact amount of which your complainants being at this time unable to state, incertain mining claims and mining properties located and situated in Blaine County, Idaho, and more particularly described as follows, to-wit:

Nevada (amended), recorded July 16, 1916; Idaho, (amended), recorded July 16, 1916; Lisette (amended), recorded July 6, 1916; Venus (amended), recorded Oct. 15, 1915; Jupiter (amended), recorded Oct. 15, 1915; Terra (amended), recorded Oct. 7, 1915; Mars (amended), recorded Oct. 7, 1915; Summit (amended), recorded July 6, 1916; Helen (amended), recorded July 6, 1916; Columbia (amended), recorded July 6, 1916; O. K. (amended), recorded July 6, 1916; Columbia No. 1, located September 15, 1920; Columbia No. 2, located September 15, 1920; Terra Nos. 2, located September 15, 1920. All of said claims being in the Little Wood River Mining District of the State of Idaho, and recorded in the Mining Records of the County of Blaine, in said State.

And that in purchasing and acquiring said mining claims and properties aforesaid with the money and funds then and there belonging to the complainants and victims herein, but which had then and there been so unlawfully and fraudulently obtained from them by the said Charles Peter as aforesaid, the said Charles Peter caused the legal title to said mining property and mining company to be taken and placed in his name individually.

Your complainants further allege and state that from and with a portion of the moneys and funds



unlawfully, wrongfully, and fraudulently obtained from them by the conspirators herein in the execution of their conspiracy and scheme to defraud the defendants herein invested a part and portion of the complainants' money and funds so unlawfully, wrongfully and fraudulently received and obtained by them, the exact amount of which your complainants being at this time unable to state, in certain mining claims and mining properties located and situated in Blaine County, Idaho, and more particularly described as follows, to-wit:

“Certain patented and unpatented lode mining claims located in the Warm Springs Mining District in Blaine County, State of Idaho, more particularly described as follows: Patented Lode Mining Claims—Oregonian, Silver Fortune, Snow Clad and P. K. and unpatented Lode Mining Claims—Snow Cap Fraction, Louise, Lydia, Gem, Snow Cap, Silver Cord, Snow Slide, Utah, Ohio, Mascot No. 1, Mascot No. 2, Mascot No. 3, Mascot No. 4, Mascot No. 5, Mascot No. 6, Mascot No. 7, and Mascot No. 8, Alturas, Flat, Atlas, Salt Lake, all of said mining claims in Blaine County, Idaho, together with all of the personal property located on said claims belonging to the said defendant corporation;

and that in purchasing and acquiring said real and personal property and mining claims and properties aforesaid with the money and funds then and there belonging to the complainants and victims herein, but which have been and there been so unlawfully and fraudulently obtained from them by the said defendants, the said defendants caused the



legal title to said real and personal property and mining properties to be taken and placed in the name of the defendant corporation, to-wit: the Mascot Mining & Milling Company, Ltd., of Idaho.

That the above described mining claims and mining properties constitute real estate and personal property purchased and acquired by the defendant, Charles Peter, and his co-defendants with the moneys and funds of the complainants and victims herein, and obtained from them by the said defendants, through and pursuant to the general conspiracy and scheme to defraud, and the execution thereof as herein set forth, and that the said defendant, Charles Peter and his co-defendants have no right, title interest or estate in, to, upon or against said real estate and personal property or any part thereof, and that in purchasing and acquiring the legal title thereto, the said Charles Peter and his co-defendants paid therefor no money or property or thing of value, except the money and funds belonging to the complainants and victims herein.

(40) That the complainants herein are the legal and equitable owners of all of said real estate and personal property and entitled to the immediate possession thereof, and are entitled to have the legal title thereto conveyed and transferred to them or decreed by the court to be held by the defendant, Charles Peter and the Mascot Mining & Milling

Co., Ltd., of Idaho in trust for the use and benefit of complainants and victims herein.

That the defendants, Charles Peter and the Mascot Mining & Milling Co., Ltd., of Idaho, claim some right. title, interest or estate in, upon and against the said real estate and personal property last above described, adverse to the claims therein of the complainants and victims herein. In relation to which, however, your complainants allege and state the fact to be that whatever right, interest or estate the said defendants may have or claim to have, in, to, upon or against said real estate and personal property, or any part thereof, that the same and all thereof is wholly junior, inferior, subject and subsequent to the demands, title, estate and rights of the complainants and victims herein.

(41) That your complainants herein are the owners and holders of approximately 200,000 shares of the capital stock of said defendant corporation, for all of which said complainants have paid value to the conspirators herein, and by reason thereof and all the facts hereinbefore stated, have been cheated and defrauded by the conspirators herein, of their moneys, properties and funds in the sum of approximately \$200,000.00 or more.

(42) That the complainants herein have no adequate remedy at law.

(43) That at all times mentioned herein, and that at the present time, the said defendant, Charles Peter and his co-conspirators have been

wrongfully usurping and still do usurp the entire control and management of the said Idaho corporation, by reason of which they have promoted and executed, and still are promoting and executing their said scheme to defraud as herein set forth; and that the said conspirators will continue so to do unless restrained by this Court, and unless a disinterested receiver for the said Idaho corporation is appointed until the management and control of said Idaho corporation is restored to the complainants herein, its real and proper owners.

(44) That unless restrained by this Court from so doing, the defendants herein, during the pendency and before the trial of this action, will transfer to strangers and innocent persons, or alleged innocent persons, the real estate and personal property mentioned and described in paragraph 39 hereof, all of which was purchased with the money and funds of the complainants and victims herein, in the manner and form as set forth in said paragraph.

And that unless restrained by this Court from so doing, the said defendants, Charles Peter and his co-conspirators, during the pendency and before the trial of this action, will transfer to strangers, innocent person, or alleged innocent persons, all of the stock in their names on the books of the Idaho corporation, or stock in the names of others held for their own use and benefit.

(45) That this action is instituted and maintained on behalf of complainants and all other shareholders of the defendant corporation similarly interested and situated.

WHEREFORE, COMPLAINANTS PRAY:—

(A) For the process of subpoena issued against the defendants and each of them separately, conformably to the practice and rules of this Court in equity suits.

(B) For an accounting between the complainants and all of the defendants conformably to the practice and rules of this Court and principles of equity; and for the determination by such accounting of the amounts and sums of money wrongfully obtained and converted by the said defendant, Charles Peter and his co-conspirators by virtue and reason of their said scheme to defraud; for the determination by said accounting of the amount and extent of all the invalid and unlawful shares of stock issued in said Idaho corporation and held in the name of the defendant, Charles Peter, and his co-conspirators and the names of others for their use and benefit; for a determination of such accounting of all the amounts of money due the complainants from the defendants or any or either of them; and for the determination of such accounting of the liability to the complainants herein and the extent thereof by any, all or either of the defendants as may be found liable under and by reason of the matters hereinbefore set forth, and for



a discovery and disclosure by said defendants and each and all of them the facts, and the reproduction of all books, accounts, letters, documents, writings of whatever kind relevant to such accounting.

(C) For the judgment and decree of this Court against the said defendants herein, or any or all or either of them for such sums of money, or the delivery or conveyance of property for which it is determined they are liable herein to the complainants.

(D) For judgment and decree of this Court against the defendant, Charles Peter and his co-conspirators, for restitution of the sum of \$200,000.00, or more as may be determined by such accounting.

(E) For judgment and decree of this Court specifically adjudging and decreeing that the said defendant, Charles Peter, hold the legal title to all of the following described real estate and personal property, to-wit:

Nevada (amended), recorded July 16, 1915; Idaho (amended), recorded July 15, 1916; Lisette (amended), recorded July 6, 1916; Venus (amended), recorded Oct. 15, 1916; Jupiter (amended), recorded Oct. 15, 1915; Terra (amended), recorded Oct. 7, 1915; Mars (amended), recorded Oct. 7, 1915; Summit (amended), recorded July 6, 1916; Helen (amended), recorded July 6, 1916; Columbia (amended), recorded July 6, 1916; O. K. (amended), recorded July 6, 1916; Columbia No. 1, located September 15, 1920; Columbia No. 2, located September 15, 1920; Terra No. 2, located September 15, 1920. All of said



claims being in the Little Wood River Mining District of the State of Idaho, and recorded in the Mining Records of the County of Blaine, in said State;

in trust for the use and benefit of the complainants herein, or the said Idaho corporation as may be determined and that the Court further specifically adjudge and decree that the said defendant Charles Peter transfer and convey to the complainants herein, by proper instrument of conveyance the legal title to said real estate and personal property, which is held by him in his name; and that the right, title, interest and estate of the complainants, in, to, upon and against said real estate and personal property be sustained and established, and that their title to said real estate and personal property and the possession thereof be quieted, and that the said defendants, Charles Peter and all persons claiming by, through or under him since the commencement of this action, be forever barred and divested from having or claiming to have any right, title or estate in, upon or against said real estate or personal property.

(F) For a restraining order to be issued forthwith to be followed by a preliminary and temporary injunction of like import as soon as may be, restraining and enjoining the defendants and each of them until after trial and final decree herein, and the further order of this Court, from transferring on the books of the said Idaho corporation or by delivery of certificates of any stock now held

or standing in the name or controlled by said defendants, or any or all or either of them; or from in any maner changing the present status of such stock or of the books of account of the said Idaho corporation; and restraining and enjoining the defendant, Mascot Mining & Milling Company, Ltd., of Idaho from paying any money to or delivering any property to the defendants, or to any other person for their use and benefit; and further restraining and enjoining the defendant herein, Charles Peter, from in any maner selling, attempting to sell, pretending to sell, transferring or conveying, or in any manner giving away any of the real estate and personal property hereinbefore described.

(G.) For the appointment of a receiver of the said defendant, Mascot Mining & Milling Company, Ltd., of Idaho, under the control of this Court, as soon as may be, to take from the said Charles Peter, and the defendants herein, the management and control of the affairs of the said Idaho corporation until after the final decree and until the further orders of this Court, in order that the said defendant, Charles Peter and his co-conspirators may be effectively stopped from the further execution of his said scheme to defraud; and in order that all of the books, accounts, letters, documents and writing of whatever kind or nature belonging to or which have been kept by the said defendant, the Idaho corporation, from being mutilated, altered, changed, or removed from the jurisdiction of this Court; and

for the further reason of having the charge, management and control of the said defendant Idaho corporation until proper actions are instituted and determined, cancelling all of the invalid shares of stock on the books of the Idaho corporation in the name of Charles Peter and his co-conspirators and other persons for their use and benefit; and to have the management and control of the said defendant Idaho corporation until the complainants herein and all the shareholders similarly situated who have paid value of their stock, may meet and organize, and effect a proper and legal Board of Directors to take and assume the management of said Idaho corporation.

And that such receiver have full power and authority from this Court to institute, prosecute and maintain any and all suits against the defendants herein, or any or either of them, or any other persons to recover any money or property, the relief for which could not be granted in this action. And that said receiver be also authorized and directed to institute, prosecute and maintain any and all actions against the said defendants, or others, for the cancellation of unlawful fraudulent and invalid stock claimed or held by them or any or either of them.

(H) That the Court render and enter a judgment and decree setting aside, cancelling and holding for naught the order appointing receiver, Ex-

hibit A: the final judgment of the Court, Exhibit B: and the order for receiver's sale, Exhibit C.

(I) For judgment and decree of this Court specifically adjudging and decreeing that the defendant corporation, to-wit, Mascot Mining & Milling Company, Ltd., of Idaho hold the legal title to all of the following described real estate and personal property to-wit:

“Certain patented and unpatented lode mining claims located in the Warm Springs mining district in Blaine County, State of Idaho, more particularly described as follows: Patented Lode Mining Claims—Oregonian, Silver Fortune, Snow Cap and P. K. and unpatented Lode Mining Claims—Snow Cap Fraction, Louise, Lydia, Gen, Snow Cap, Silver Cord, Snow Slide, Utah, Ohio, Mascot No. 1, Mascot No. 2, Mascot No. 3, Mascot No. 4, Mascot No. 5, Mascot No. 6, Mascot No. 7, and Mascot No. 8, Alturas, Flat, Atlas, Salt Lake, all of said mining claims in Blaine County, Idaho, together with all of the personal property located on said claims belonging to the said defendant corporation;

in trust for the use and benefit of the complainants herein, and that the Court further specifically adjudge and decree that the said defendant, to-wit, Mascot Mining & Milling Company, Ltd., of Idaho, transfer and convey to the complainants herein by a proper instrument of conveyance the legal title to all said real estate and personal property which is held by it in its name; and that the right, title and estate of complainants in, to, upon and against said real estate and personal property be sustained and established and that the title to said real estate



and personal property and the possession thereof be quieted and that the said defendant corporation, to-wit: Mascot Mining & Milling Company, Ltd., of Idaho, and all persons claiming by, through or under it, since the commencement of this action be forever barred and divested from having or claiming to have any title, interest or estate in, upon or against said real estate or personal property.

(J) For such other orders, judgment, decrees, and equitable relief to which these complainants may be entitled in equity, and which to the Court may seem just and proper under the evidence and pleadings in this cause, and for judgment for costs of this action

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HOMER N. BOARDMAN,  
 301 Empire Bldg.,  
 Oklahoma City, Okla.  
 B. A. CUMMINGS, and  
 ROSS W. BATES,  
 Room 7, Cook Bldg.,  
 Pocatello, Idaho.

State of Oklahoma,     )  
   )ss.  
 County of Oklahoma.    )

We, the undersigned, William Klien and Henry Kamp, two of the complainants named in the attached complaint in equity of lawful age, after being first sworn duly, do depose and say: That they know the contents thereof and that the allegations therein set forth are true, except as to matter therein stated on information and belief, and that as to



such allegation and statements they believe the same to be true.

WM. KLEIN,  
HENRY KAMP,

Subscribed and sworn to before me this 20th day  
of June, A. D. 1921.

JESSIE GROVE,  
(N. P. SEAL)                      *Notary Public.*  
My Commission Expires May 26, 1923.

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EXHIBIT A.

*In the District Court of the Fifth Judicial District  
of the State of Idaho, in and for the  
County of Bannock.*

FERDINAND WALTHER,

*Plaintiff,*

vs.

MASCOT MINING & MILLING COM-  
PANY, a Corporation,

*Defendant.*

ORDER APPOINTING RECEIVER.

(No. 4607: Filed Oct. 14, 1920. R. O. Earley,  
Clerk of District Court by Lillian Sponberg,  
Deputy.

Upon motion of the plaintiff in the above en-  
titled court and cause, and upon the Court's order  
to show cause directed to the defendant corporation  
in the above entitled action, having come regularly  
on to be heard this 12th day of October, 1920, upon  
the pleadings and files in the above entitled court  
and cause, and the affidavit of the plaintiff herein,

the plaintiff appearing by N. E. Snell, Attorney, and ..... , the duly authorized agent of the defendant corporation appearing for and on behalf of the said corporation, and upon the presentation of this cause to the Court, good cause appears, and this appearing to be the case in which a receiver should and may be appointed under Subdivisions 1 and 5 of Section 6817 of the Compiled Statutes of Idaho, 1919, and the plaintiff and defendant having agreed upon E. S. Sloane as Receiver:

IT IS THEREFORE ORDERED:

1. That the defendant, The Mascot Mining & Milling Company, a corporation, deliver to the Receiver herein all its assets and property, real and personal, located in Bannock County and Blaine County, Idaho.

2. That E. S. Sloane of Pocatello, Bannock County, Idaho, is hereby appointed Receiver to take charge, control and custody of the defendant's assets and property, real and personal which is located in Bannock County and Blaine County, Idaho.

2. That ..... of Pocatello, Bannock County, Idaho, is hereby appointed receiver to take charge of the property and assets of the defendant corporation, and to take and keep the property of the defendant in his possession, to protect and preserve the said property of the said defendant and to do such other and further acts

respecting the property of said defendant as the Court may authorize.

3. That the said receiver is hereby authorized and directed to cause the other creditors of the defendant corporation to file and list with this receiver their claims against the defendant corporation.

4. That the said receiver is hereby authorized and directed to sell at receiver's sale either publicly or privately the property of the defendant corporation, the Mascot Mining & Milling Company, and authorized and directed to apply the proceeds derived from said sale to the payment of the debts owing by said corporation.

5. That this order is to become effective upon the filing with the Clerk of the above Court a good and sufficient bond approved by this Court in the sum of \$5000.00 and the said bond of the said E. S. Sloane as receiver is hereby approved.

Dated at Pocatello, Idaho, this 12th day of October, 1920.

(Signed)

O. R. BAUM,  
*District Judge.*

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“EXHIBIT B.”

*In the District Court of the Fifth Judicial District  
of the State of Idaho, in and for  
Bannock County.*

FERDINAND WALTHER,

*Plaintiff,*

vs.

THE MASCOT MINING & MILLING  
COMPANY, a Corporation,*Defendant,*

and

G. ADOLF LOBNER,

*Intervenor.*

## JUDGMENT.

Now, on this 31st day of May, 1921, the above entitled cause came regularly on for hearing before the Honorable Ralph W. Adair, District Judge of the Sixth Judicial District of the State of Idaho, sitting in open court in the City of Pocatello, Bannock County, Idaho.

The plaintiff appeared by and through his counsel, N. E. Snell. The defendant, the Mascot Mining & Milling Company, a corporation, appeared by and through its counsel, P. C. O'Malley. The intervenor in said cause appeared by and through his counsel, Ross W. Bates. The receiver in said action, E. S. Sloane, appeared by and through his counsel, H. E. Ray. Said receiver being present before the Court.

That on the 27th day of May, 1921, the Honorable O. R. Baum, one of the judges of the Fifth Judicial District for good cause appearing called in to hear said cause to a full and complete determination of said cause the Honorable Ralph W. Adair, Judge of the Sixth Judicial District.

That at the call of the trial of said cause the Intervenor, by his attorney, Ross W. Bates, moved to dismiss the complaint in intervention filed by said Receiver. No objection being made to the motion the Court ordered the complaint in intervention dismissed upon the motion filed.

Thereupon the Court proceeded to hear and determine the issue in said cause. The plaintiff introduced evidence in support of his claim and rested his cause. Proof was then submitted upon the other claims filed with the receiver in said action. The receiver of said cause, E. S. Sloane, then introduced proof in support of the items of expense of the said receiver and the same, being the report of the expenses was marked as an exhibit in said cause and admitted by the Court. No further evidence being introduced the Court took said cause under advisement for decision.

Upon the close of said evidence a stipulation was filed with the Court, signed by the attorneys for the respective parties herto, namely: N. E. Snell, counsel for the plaintiff; P. C. O'Malley, counsel for the defendant, and H. E. Ray, attorney for the receiver appointed by the Court, that findings of fact and conclusions of law might be waived and that judgment be entered in said cause with the same force and effect as though the same had been fully and completely made. And the Court approving of said stipulation as to a waiver of the findings of fact and conclusions of law does not



make any findings of fact or conclusions of law other than those set out herein.

This Court does, however, make the following findings of fact:

1.

That on or about the 12th day of October, 1920, the Honorable O. R. Baum, one of the judges of the Fifth Judicial District of the State of Idaho, appointed one E. S. Sloane, Receiver of the defendant corporation, and that the said E. S. Sloane gave his bond and entered upon the discharge of his duties as such receiver and as such receiver took into his possession under order of the Court, all of the property, both real and personal, belonging to the said defendant, which he now has and holds subject to the order of the Court.

2.

That the said defendant corporation on the date of the filings of the complaint in this action was and is insolvent.

3.

That the said receiver, E. S. Sloane, under the order of the Court, took into his possession the following described property, being real and personal as follows:

“Certain patented and unpatented lode mining claims located in the Warm Springs mining District in Blaine County, State of Idaho, more particularly described as follows: Patented Lode Mining Claims—Oregonian, Silver Fortune, Snow Clad and P. K. and unpatented

Lode Mining Claims—Snow Cap Fraction, Louise, Lydia, Gem, Snow Cap, Silver Cord, Snow Slide, Utah, Ohio, Mascot No. 1, Mascot No. 2, Mascot No. 3, Mascot No. 4, Mascot No. 5, Mascot No. 6, and Mascot No. 7, and Mascot No. 8, Alturas, Flat, Atlas, Salt Lake, all of said mining claims in Blaine County, Idaho, together with all of the personal property located on said claims belonging to the said defendant corporation,

and the following personal property belonging to the defendant corporation situated in the City of Pocatello, Bannock County, Idaho, viz:

Office furniture and fixtures located in room 211 in the First National Bank Building in the City of Pocatello, Bannock County, Idaho.

#### 4.

That in order to preserve and protect the property of the defendant, and to effect the purposes of said receivership, the said receiver, E. S. Sloane, has been compelled to and did under the direction and order of the Court borrow certain money which is evidence by certain notes, the dates, amounts and holders of said notes being as follows:

Note Dated	11-30-20	\$1,000.00	Holder	Arthur H. Freber
"	"	12-31-20	"	" " "
"	"	1-31-21	"	" " "
"	"	2-28-21	"	1st Nat'l Bank of Pocatello, Idaho.
"	"	4-20-21	"	F. Moormeister.
"	"	4-25-21	"	Arthur H. Freber.
"	"	5-14-21	"	" " "

All of said notes bearing interest at the rate of 8% per annum from said dates, making a total sum

of principal and interest due to May 31st, 1921, of \$4990.84. That said claims represented by the notes set out above are preferred claims and should first be paid out of the assets now in the hands of this receiver.

5.

That the testimony introduced in support of the plaintiff's claim, and the proof submitted in support of the individual claims of the claimants herein, is free from all objection as to its competency, sufficiency and admissibility and that the material allegations of the plaintiff's complaint in said action have been sustained and that the plaintiff and the other claimants herein named are entitled to judgment on their individual claims as hereinafter ordered.

The Court having carefully considered the said cause and the proof submitted in said cause and being fully advised as to all matter therein contained now orders that judgment be entered as now stated.

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED BY THE COURT, That Arthur H. Freber have and recover judgment of and from the defendant, The Mascot Mining & Milling Company, a corporation, the sum of \$3,367.00 and that said sum draw interest at the rate of Seven per cent per annum until paid.

That the First National Bank of Pocatello, Idaho, have and recover judgment of and from the de-

fendant, The Mascot Mining & Milling Company, a corporation, the sum of \$867.00 and that said sum draw interest at the rate of seven per cent per annum from this date until paid.

That F. Moormeister have and recover of and from the defendant, The Mascot Mining & Milling Company, a corporation, the sum of \$756.84 and that said sum draw interest at the rate of seven per cent per annum from this date until paid.

That said judgments hereinbefore set out are preferred claims against the defendant The Mascot Mining & Milling Company and must be paid first by said receiver.

IT IS FURTHER CONSIDERED, ORDERED AND ADJUDGED That the plaintiff herein, Ferdinand Walther, do have and recover of and from the defendant, The Mascot Mining & Milling Company, a corporation, the sum of \$6,250.78, and that said sum draw interest at the rate of seven per cent per annum from this date until fully paid.

That the claimant herein, Charles Peter, do have and recover of and from defendant, The Mascot Mining & Milling Company, a corporation, the sum of \$92,479.29 and that said sum draw interest at the rate of seven per cent from this date until fully paid.

That the claimant, Jonas Lorenzen, do have and recover of and from the defendant, The Mascot Mining & Milling Company, a corporation, the sum of \$405.55 and that said sum draw interest at the

rate of seven per cent per annum from this date until fully paid.

That the claimant, L. K. Butts, do have and recover of and from the defendant, The Mascot Mining & Milling Company, a corporation, the sum of \$405.55 and that said sum draw interest at the rate of seven per cent per annum from this date until fully paid.

That the claimant, Henry C. Wolf, do have and recover of and from the defendant, The Mascot Mining & Milling Company, a corporation, the sum of \$405.57 and that said sum draw interest at the rate of seven per cent per annum from this date until fully paid.

That the claimant herein, the Western Powder Company, do have and recover of and from the defendant, The Mascot Mining & Milling Company, a corporation, the sum of \$300.00 and that said sum draw interest at the rate of seven per cent per annum from this date until fully paid.

Done and dated in open Court in the City of Pocatello, Bannock County, State of Idaho, this 31st day of May, 1921.

(Signed)  
Judgment Approved:

RALPH W. ADAIR,  
*District Judge.*

.....  
*Attorney for Plaintiff.*

.....  
*Attorney for Defendant.*

.....  
*Attorney for Receiver.*  
May 31st, 1921.



“EXHIBIT C”.

*In the District Court of the Fifth Judicial District  
of Idaho, in and for the County  
of Bannock.*

FERDINAND WALTHER,

*Plaintiff,*

vs.

THE MASCOT MINING & MILLING  
COMPANY, a Corporation,

*Defendant,*

and

G. ADOLF LOBNER,

*Intervenor.*

ORDER FOR RECEIVER'S SALE.

WHEREAS, a judgment was made in the above entitled cause on the 31st day of May, 1921, and filed on the first day of June, 1921, allowing a money judgment in favor of the above named plaintiff, and of several creditors claimants, aggregating \$105,217.58, and

WHEREAS, it appears from said judgment that the receiver, E. S. Sloane, is in charge of all of the assets of the defendant, Mascot Mining & Milling Company, and

WHEREAS, it appears that said company is insolvent and that there are no funds in the hands of said receiver to pay said claims allowed in said judgment, and

WHEREAS, it appears that all of the property of said company, defendant, will have to be sold to satisfy said claims, allowed in said judgment,

NOW THEREFORE, IT IS ORDERED: Pursuant to and to satisfy said hereinbefore mentioned judgment and the claims thereunder allowed, That the receiver, E. S. Sloane, of the defendant Mascot Mining & Milling Company, be and he is hereby authorized, empowered and directed to sell at public auction, on the premises of the said Mascot Mining & Milling Company, near Hailey, in Blaine County, Idaho, all of the right, title and interest of the said Mascot Mining & Milling Company, of, in and to all of its real, personal and mixed property of whatsoever kind or character, and including particularly the hereafter described real and personal property, said sale to include the good will of said defendant, Mascot Mining & Milling Company.

IT IS FURTHER ORDERED AND DIRECTED That said property shall be made without the right of redemption and that no redemption shall be allowed after the acceptance of the bid and the confirmation of the sale by the Judge of this Court, and that a deed absolute shall thereupon be made to the purchaser.

IT IS FURTHER ORDERED, That said property be sold for cash, lawful money of the United States, subject to confirmation by this Court.

IT IS FURTHER ORDERED, That notice of this sale be published by said receiver once a week for three successive weeks in a newspaper published at Pocatello, Bannock County, Idaho, and a newspaper published at Hailey, Blaine County, Ida-

ho, and that notices of said sale be posted in accordance with the law of Idaho respecting the sale of real estate under execution, and that at least 20 days' notice of said sale be given by said receiver.

IT IS FURTHER ORDERED, and DIRECTED, That the proceeds of said sale be entrusted to said receiver, E. S. Sloane, to be held by him and applied under direction of the above entitled court, in payment of said claims in said judgment hereinbefore mentioned.

IT IS FURTHER ORDERED THAT said sale be promptly reported by said receiver to this Court for confirmation.

The real property to be sold under this order, among other property of said defendant, is described as follows, to-wit:

The patented and unpatented lode mining claims located in the Warm Springs Mining District in Blaine County, State of Idaho, more particularly described as follows, to-wit:

UNPATENTED MINING CLAIMS: Snow Cap, Fraction, Louise, Lydia, Gem, Snow Cap, Silver Cord, Snow Slide, Utah, Ohio, Mascot No. 1, Mascot No. 2, Mascot No. 3, Mascot No. 4, Mascot No. 5, Mascot No. 6, Mascot No. 7, Mascot No. 8, Alturas, Flat, Atlas and Salt Lake.

UNPATENTED LODGE MINING CLAIMS: Oregonian, Silver Fortune, Snow Clad and P. K., together with all personal property of the said company on said mining claims, patented or unpatented.

All of the above described mining claims being recorded in Book No. 101 of Lode Mining Claims of Blaine County, Idaho, together with any and all water and water rights belonging to said corporation defendant, or in any wise appertaining to said above described lode mining claims;

IT IS FURTHER ORDERED that said receiver sell the personal property of the defendant located in Room 211, First National Bank Building, Pocatello, Idaho, at the site of the location of said property.

Dated: Pocatello, Idaho, June 1st, 1921.

(Signed)

RALPH W. ADAIR,

*District Judge.*

Endorsed: Filed June 24, 1921,

W. D. McREYNOLDS, Clerk,

By Pearl E. Zanger, Deputy.

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(Title of Court and Cause.)

(No. 307.)

MOTION TO STRIKE AND DISMISS SAID  
COMPLAINT FROM FILES AND DOCKET  
OF THE COURT.

Comes now the defendant, the Mascot Mining & Milling Co., Ltd., of Idaho, a corporation, one of the defendants named in this bill of complaint and appearing for itself only, moves the Court to strike and dismiss the complaint of complainants from the files and the docket of said Court, and that the defendant, the Mascot Mining & Milling Co., Ltd., takes the costs in this Court incurred for the following reasons:

## I.

That this complaint, No. 307 in equity is almost identical in words and substance as the complaint filed in suit No. 263 in equity, which said suit this Court refused to entertain and sustained a demurrer to and which the complainants filed a supplemental and amended complaint and afterwards dismissed the same.

## II

That there is an insufficiency of facts to constitute a valid cause of action in equity against this defendant and that said complaint states no cause of action against the defendant.

## III.

That it affirmatively appears from the complaint that the District Court of the Fifth Judicial District, County of Bannock, State of Idaho, has already assumed jurisdiction of all the matter pertaining to this suit, all of the property and books belonging to the corporation, the Mascot Mining & Milling Co., Ltd., of Idaho and has appointed a receiver and the said receiver has, under the order of the District Court, taken full possession and control of all the property of the Mascot Mining & Milling Co., all of which affirmatively appears in paragraph thirty-five (35) beginning on page 24 of said amended complaint, which shows affirmatively that the District Court has jurisdiction of the matter and that these allegations in this bill are identical, word for word, with the allegations contained in



bill No. 263, upon which this Court refused to assume jurisdiction and sustained a demurrer to the complaint.

#### IV.

That it affirmatively appears from the complaint that not only has the District Court of the Fifth Judicial District of Bannock County, Idaho, assumed control and jurisdiction of the property and all of the books and records of the Mascot Mining & Milling Co., but the said complaint shows affirmatively that the District Court did, on the 31st day of May, 1921, make and enter judgment against the defendant for a *large* amount of money, and in favor of this claimant and it affirmatively appears from the complaint that the District Court did, on the 31st day of May, 1921, make an order for a receiver's sale; That this Court has no jurisdiction or right to interfere with the judgments and orders of the District Court.

That the filing of this complaint, it being practically in words and substance, the same complaint that this Court sustained a demurrer to and a motion to dismiss on the 2nd day of May, 1921, comes without merit and is made for no other purpose than to subject this defendant to additional costs and expenses; This defendant alleges that it has been damaged by the filing of this bill in equity, which is nothing more than a subterfuge and frivolous in *it's* character, to the extent of \$500.00; This defendant respectfully requests the said bill of

equity be dismissed and stricken from the files and docket of the Court and that it be allowed the sum of Five Hundred (\$500.00) to pay *its* attorney's fees and expenses for having to appear a second time in this Court on the same complaint that this Court has previously refused to entertain.

P. C. O'MALLEY,  
*Solicitor for Defendant.*  
Residence, Pocatello, Idaho.

Service of the foregoing  
instrument and a copy thereof  
acknowledged this 2nd day of  
July, 1921.

ROSS W. BATES,  
*Solicitor for Complainants,*  
Residence, Pocatello, Idaho.  
Endorsed: Filed July 5, 1921,  
W. D. McREYNOLDS, Clerk,

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(Title of Court and Cause.)  
(No. 307.)

MOTION TO STRIKE.

Comes now the defendant J. M. Stevens and for himself individually moves to strike the complaint filed by the complainants herein for the reasons and upon the grounds as follows:

1.

That the pleading is sham, frivolous and not based upon any fact or facts, and is not brought in good faith by the complainants herein.

## 2.

That in the prayer of relief asked for in said cause the complainants herein are asking for the appointment of a receiver for the defendant, Mascot Mining & Milling Company, Limited, of Idaho, and that in the body of the complaint the said complainants show that the State Court in the latter part of 1920 and before the filing of case No. 307 in equity in this Court, a suit was brought by Ferdinand Walther, plaintiff against the Mascot Mining & Milling Company, and in said cause an application was made for a receiver of the defendant corporation, made upon an order to show cause, and that upon said return to said order, one E. S. Sloane was appointed receiver of the Court and was appointed the receiver of the Mascot Mining & Milling Company, the same being the exact and the same corporation as is here made a defendant; that said receiver filed his bond and entered upon the discharge of his duty and took possession of all of the property of the defendant corporation, including its real, personal and mixed property, all of its choses of action and all other property of whatever description, and that the said defendant corporation is still in the hands of the receiver, and that the receiver is not at this date and was not on the date of the filing of the complaint herein, discharged from his official capacity, and that as such receiver he is still in charge of the property of the defendant corporation.

3.

That the said complainants do not have legal capacity to sue for the reason that the affairs of the defendant corporation are in the hands of a receiver at this time, and that the only person authorized to bring any suit such as is stated in the body of the complaint in equity filed herein being number 307, is the receiver in this action.

4.

That before said suit can be maintained by these complainants it is necessary that a demand be made either upon the receiver or upon the directors of the defendant corporation to institute on or in behalf of said complainants.

5.

That the Federal Court has no jurisdiction over this action for the reason that prior jurisdiction has been established in the State Court, more especially noted as the District Court of the Fifth Judicial District of the State of Idaho, in and for Bannock County.

WHEREFORE, this defendant J. M. Stevens prays that said complaint be dismissed herein and that he have and recover his costs herein expended.

DOUGLAS MOTE,

*Attorney for Defendant*

*J. M. Stevens,*  
Pocatello, Idaho.

Service of the above paper and a copy thereof acknowledged this 6th day of July, 1921.

ROSS W. BATES,

.....  
 .....  
*Attorneys for Complainants.*

Endorsed: Filed July 6th, 1921,

W. D. McREYNOLDS, Clerk,

**MINUTE ENTRY.**

At a stated term of the District Court of the United States for the District of Idaho, held at Pocatello, Idaho, on October 10, 1921, the following proceedings were had, to-wit:

PRESENT: Hon Frank S. Dietrich, Judge,  
 and the other officers of the Court.

William Klein, et al. )	
vs. )	Civil No.307.
Charles Peter et al. )	

The motion to dismiss was argued before the Court by counsel for the respective parties, after which the Court announced his decision, granting the motions and dismissing the cause, with exceptions allowed the plaintiff to the order.

\_\_\_\_\_  
 (Title of Court and Cause.)  
 No. 307.

**FINAL DECREE.**

This cause came on to be heard on the 10th day of October, A. D., 1921, upon the motions filed herein by the defendants, Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, and J. M. Stevens, to strike and dismiss the complainants' Bill in Equity, filed herein, and Messrs. Homer N. Boardman and Ross W. Bates having been heard



on the part of the complainants; and Mr. P. C. O'Malley, having been heard on the part of the defendant, Mascot Mining & Milling Company; and Mr. Douglas D. Mote, having been heard on the part of the defendant, J. M. Stevens, and thereupon upon consideration thereof,

IT IS ORDERED, ADJUDGED AND DECREED, That the said Bill of Complaint herein be and the same is hereby dismissed with costs to the defendants to be taxed, to all of which the complainants except and exceptions are allowed.

Dated March 30, 1922.

FRANK S. DIETRICH,  
*Judge U. S. District Court,  
District of Idaho, Eastern  
Division.*

Endorsed: Filed, March 30, 1922,  
W. D. McREYNOLDS, Clerk,

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(Title of Court and Cause.)  
No. 307.

### PETITION FOR APPEAL.

Comes now the Complainants above named and in support of their petition for appeal herein allege and state:

1.

That they are aggrieved by the judgment and decree of this Court made and entered in this cause on the 30th day of March, 1922, sustaining the motions of defendant, J. M. Stevens, R. E. Roser and the Mascot Mining & Milling Company, Ltd. of Idaho, a corporation, to dismiss the Complainants'

Complaint in Equity, and dismissing said complainant's complaint and rendering judgment and decree for the costs of this action against the complainants.

## 2

These complaints conceive themselves aggrieved by said judgments, orders and decrees and also by the findings, orders, judgments, and decrees hereinafter set forth in the assignments of error, and which said assignments are filed herewith.

## 3.

That by reason of being aggrieved by said orders, judgments and decrees above referred to these complainants do hereby appeal from said orders, judgments and decrees to the United States Circuit Court of Appeals for the Ninth Circuit and on account of the reasons specified in the attached assignments of error hereinbefore referred to, and which are filed herewith.

WHEREFORE, these complainants pray that the Court grant an order allowing this appeal and causing a citation to be issued thereon and fixing the amount of the complainants appeal bond and ordering a stay of execution of all further proceedings pending said appeal.

HOMER N. BOARDMAN,  
RICHARD H. JOHNSON and  
CAREY H. NIXON,

*Attorneys and Solicitors for Complainants.*

Endorsed: Filed March 31, 1922,

W. D. McREYNOLDS, Clerk.

(Title of Court and Cause.)

No. 307.

ASSIGNMENTS OF ERROR.

Come now the complainants named in the above entitled cause, and aver that the order of this Court made and entered in this cause on the 10th day of October, 1921, sustaining the motions of the defendants, J. M. Stevens and the Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, to dismiss the complainants' complaint in equity, and dismissing said complaint and rendering judgment and decree on March 30th, 1922, for the costs of this action, against the complainants, is erroneous and against the just rights of these complainants for the following reasons, to-wit:

1.

That the Court erred in sustaining the motion of the defendant, J. M. Stevens to dismiss the complainants' complaint in equity filed in this action.

2

That the Court erred in sustaining the motion of the defendant, Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, to dismiss the complainant's complain in equity filed in this action.

3.

That the Court erred in granting a final judgment and decree dismissing the complainants' complaint in equity and rendering judgment for costs against the complainants.

4.

That the Court erred in holding that the com-

plainants' complaint in equity did not state a cause of action.

5.

That the Court erred in holding and adjudging that the complainants' complaint in equity should be dismissed for want of equity.

6.

That the Court erred in holding that these complainants do not have a legal capacity to sue and prosecute this action.

7.

That the Court erred in holding that it has no jurisdiction over this action and the subject matter thereof.

8.

That the Court erred in holding that there is a misjoinder of parties in this action.

9.

That the Court erred in holding that the complainants' complaint in equity did not state a cause of action against the defendant, J. M. Stevens.

10.

That the Court erred in holding that the complainants' complaint in equity did not state a cause of action against the defendant, Mascot Mining & Milling Company, Ltd., of Idaho, a corporation.

WHEREFORE, the complainants pray that the judgment and decree of this Court made and entered on the 30th day of March, 1922, sustaining the motions of the defendant, J. M. Stevens and Mascot Mining & Milling Company, Ltd., of Idaho,

a corporation, to dismiss the Complainants' Complaint in Equity, and dismissing the same and rendering judgment and decree for costs of this action against the complainants, be reversed, vacated, set aside and held for naught.

Complainants further pray that upon reversing of the said judgment, order and decree of said Court, that this Court make such other and further orders and grant the complainants herein such other and further equitable relief to which they may be entitled in the premises.

HOMER N. BOARDMAN,  
RICHARD H. JOHNSON and  
CAREY H. NIXON,

*Attorneys and Solicitors for Complainants.*

Endorsed: Filed March 31, 1922,

W. D. McREYNOLDS, Clerk,

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(Title of Court and Cause.)  
No. 307.

ORDER ALLOWING APPEAL.

This day came the complainants above named by Messrs. Homer N. Boardman, Richard H. Johnson, and Carey H. Nixon, their attorneys and solicitors, and presented their petition for appeal, and their assignment of errors, and upon consideration thereof,

IT IS NOW ORDERED AND ADJUDGED, that said petition and assignment of errors be and the same are hereby filed and the petition for appeal be and the same is hereby allowed, as prayed, and citation is hereby directed to be issued as pro-



vided by law and bond on appeal is fixed at the sum of Five Hundred (\$500.00) Dollars.

FRANK S. DIETRICH,  
*Judge of the U. S. District  
Court, District of Idaho,  
Eastern Division.*

Endorsed: Filed March 31, 1922,

W. D. McREYNOLDS, Clerk.

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BOND ON APPEAL.

KNOW ALL MEN BY THESE PRESENTS:

That we, Henry Kamp, Henry E. Hanstein and William Klein, as Principals and The United States Fidelity & Guaranty Company, as Surety, are held and firmly bound unto Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, and J. M. Stevens, in the full and just sum of FIVE HUNDRED & NO/100 (\$500.00) DOLLARS, to be paid to the said Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, and J. M. Stevens, their heirs, executors, administrators, successors or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally by these presents. Sealed with our seals, and dated this 31st day of March in the year of our Lord one thousand nine hundred twenty-two.

WHEREAS, lately at the February term of the District Court of the United States for the District of Idaho, Eastern Division, in a suit depending in said Court between William Klein et al., complain-

ants, and Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, J. M. Stevens, and others, are defendants, judgment was rendered against the said complainants and the said complainants have obtained an appeal of the said Court to reverse the judgment in the aforesaid suit, and a citation directed to the said Mascot Mining & Milling Company, Ltd., of Idaho, a corporation and J. M. Stevens, citing and admonishing them to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, California, thirty days from and after the date of said citation.

Now, the condition of the above obligation is such, that if the said complainants shall prosecute said appeal to effect, and answer all damages and costs if they fail to make good their plea, then the above obligation to be void, else to remain in full force and virtue.

Sealed and delivered in presence of

HENRY KAMP, (Seal)

HENRY E. HANSTEIN, (Seal)

WM. KLEIN, (Seal)

*Principals.*

UNITED STATES FIDELITY &  
GUARANTY COMPANY, of Baltimore, Maryland.

By Henry Whitson,

*Attorney-in-Fact,  
Surety.*

(Corporate Seal)

Approved by Frank S. Dietrich,  
Judge United States District  
Court, District of Idaho.

Endorsed: Filed March 31, 1922.

W. D. McREYNOLDS, Clerk,

(Title of Court and Cause.)

No. 307.

PRAECIPE FOR TRANSCRIPT.

TO THE CLERK OF THE UNITED STATES  
DISTRICT COURT, DISTRICT OF IDAHO,  
EASTERN DIVISION:

You are hereby requested to prepare at once the transcript for an appeal in the above entitled cause, and include therein the following:

1.

The citation dated March 31, 1922, with acknowledgment on proof of service.

2

The complainants' complaint in equity.

3.

The motion of the defendant, J. M. Stevens, to strike the complaint filed in this action by the complainants.

4.

The motion of the defendant, Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, to strike and dismiss the complaint filed in this case by the complainants.

5.

The minute entry and journal of the proceedings of this case on October 10, 1921, showing the pre-

sentation of the motion to dismiss and the decision of the Court, dismissing the case, with exception allowed to the complainants.

6.

Final decree entered March 30, 1922.

7.

Complainants' Petition for Appeal.

8.

Complainants' Assignment of Error.

9.

Order allowing appeal.

10.

Complainants' appeal bond with approval and all endorsements.

11.

Praecipe for transcript, with acceptance or proof of service and all endorsements, and return of record.

12.

Appellants' election to have transcript of record prepared under the supervision of the clerk of the District Court.

13.

Any and all orders which may hereafter be entered, enlarging the time to lodge the record in Appellate Court.

14.

Final certificate of the Clerk of the United States District Court.

RICHARD H. JOHNSON,  
CAREY H. NIXON,  
HOMER N. BOARDMAN,

*Attorneys and Solicitors for Appellants.*

State of Idaho,        )  
                                  )ss.  
County of Bannock.)

We, the undersigned, Douglas D. Mote ,Attorney and Solicitor of record for the appellee, J. M. Stevens, and P. C. O'Malley, Attorney and Solicitor of record for the appellee, Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, do hereby accept service of the above and foregoing Praecipe for Transcript, and acknowledge receipt of a true copy thereof at Pocatello, Idaho.

This 2nd day of May, A. D. 1922.

D. D. MOTE,

*Attorney and Solicitor for  
J. M. Stevens, Appellee.*

P. C. O'MALLEY,

*Attorney and Solicitor for  
Mascot Mining & Milling  
Co., Ltd., of Idaho, a  
Corporation, Appellee.*

Endorsed: Filed May 3, 1922,

W. D. McREYNOLDS, Clerk,

By Pearl E. Zanger, Deputy.

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*In the District Court of the United States, for the  
District of Idaho, Eastern Division.*

### ORIGINAL CITATION.

No. 307.

William Klein, John Picha, Fred Kamp,  
William F. Kamp, Henry Kamp, Henry  
E. Hanstein, Albert E. Will, M. J. Dall-  
meyer, A. J. Dallmeyer, F. J. Tullius,  
Henry Walsh, Mattie McLennan, W. J.  
Weiche, and — —Weiche, his wife; John



Hetzel, Frank Manning, Frank P. Zurline, Louis Thieme, Rudolph Schier, John W. Wolf, Roy C. Wolf, Fanny M. Wolf, George H. Reding, William Graef, Albert Coleman, J. H. Pruitt, Paul Brueschke, H. Eden, Mrs. Henry Schwarze, Henry C. Kamp and Margarethe Kamp, his wife; Ernest Kamp, Elsie Kamp, W. A. Burtchi, W. J. Burtchi, David Scheihing, John Swirzinski, Mrs. W. Winstanley, T. F. Hansen, Anna Hansen, Mrs. A. Murray, G. W. Burmeister, Frank Vorpahl, George Schwab, H. W. P. Wolf, Joel Sprunger, Martha Sprunger, Omer Sprunger, Elda Sprunger, Albert Sprunger, Irene Sprunger, A. G. Messall, Henry Knippelmeier, Peter Wolf, Nicholas Reding, William Sieber, Caroline Sieber, Albert Moeller, Joseph Vondran, H. H. Carter, C. Arnold, Theodore Von Elm, Michael Reding, E. C. Wolf, Henry C. Wolf, L. Eden, Mrs. A. H. Wolf, J. W. Pickard, John Bolton, Mrs. A. D. Frascoli, William Borchers, John Thiessen, F. Schaefernolte, August Bliefernich, William Berger, John Keller, Jack Keller, Fred Schielow, A. A. Knoch, C. Keller, A. C. Boekle, E. R. Alpert, Frank H. Knoche, J. W. Knoche, Fred Homrig-hausen, Paul Alpert, Arthur E. Ninmann, H. E. Palmer, William Heusmann, Mrs. T. J. Rasp, J. W. Lorenzen, Frank Dale, J. C. Goggerty, Mrs. George Loeffelholz, Dan Schader, Jacob Rott, F. M. Mozer, John Hummel, Herman Mielke and H. Kappus, John Lorenzen, Robert G. Koerner, Elizabeth Kastner,

G. L. Knoche, M. H. Seldelbach and  
William Fedderson,

*Complainants,*

vs.

Charles Peter, J. M. Stevens, A. J. Weber,  
Arthur H. Freber, W. R. Calvert, Frank  
Van der Linde, William Jacobsen, R. E.  
Roser, Ferdinand Walther and the  
Mascot Mining & Milling Company,  
Ltd., of Idaho, a corporation,

*Defendants.*

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The President of the United States to the above named defendants, the Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, and J. M. Stevens. and all others similarly situated; and to P. C. O'Malley, Esq., and Douglas D. Mote, Esq., their attorneys respectively, GREETING:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit to be held in the City of San Francisco, in the State of California, within thirty days from the date of this writ, pursuant to an appeal allowed and on file in the Clerk's office of the District Court of the United States for the District of Idaho, Eastern Division, wherein, William Klein, John Picha, Fred Kamp, William F. Kamp, Henry Kamp, Henry E. Hanstein, Albert E. Will, M. J. Dallmeyer, A. J. Dallmeyer, F. J. Tullius, Henry Walsh, Mattie McLennan, W. J. Weiche and — — Weiche, his wife, John Hetzel, Frank Manning, Frank P. Zurline, Louie Thieme, Rudolph Schier, John W. Wolf, Roy C. Wolf, Fanny M. Wolf,

George H. Reding, William Graefe, Albert Coleman, J. H. Pruitt, Paul Brueschke, H. Eden, Mrs. Henry Schwarze, Henry C. Kamp and Margarethe Kamp, his wife; Ernest Kamp, Elsie Kamp, W. A. Burtchi, W. J. Burtchi, David Scheihing, John Swirzinski, Mrs. W. Winstanley, T. F. Hansen, Anna Hansen, Mrs. A. Murray, G. W. Burmeister, Frank Vorpahl, George Schwab, H. W. P. Wolf, Joel Sprunger, Martha Sprunger, Omer Sprunger, Alda Sprunger, Albert Sprunger, Irene Sprunger, A. G. Messall, Henry Knippelmeier, Peter Wolf, Nicholas Reding, William Sieber, Caroline Sieber, Albert Moeller, Joseph Vondran, H. H. Carter, C. Arnold, Theodore Von Elm, Michael Reding, E. C. Wolf, Henry C. Wolf, L. Eden, Mrs. A. H. Wolf, J. W. Pickard, John Bolton, Mrs. A. D. Frascoli, William Borchers, John Thiessen, F. Schaefermolte, August Bliefernich, William Berger, John Keller, Jack Keller, Fred Schielow, A. A. Knoch, C. Keller, A. C. Boekle, E. R. Alpert, Frank H. Knoche, J. W. Knoche, Fred Homrighausen, Paul Alpert, Arthur E. Ninman, H. E. Palmer, William Heusmann, Mrs. T. J. Rasp, J. W. Lorenzen, Frank Dale, J. C. Gogerty, Mrs. George Loeffelholz, Dan Schader, Jacob Rott, F. M. Mozer, John Hummel, Herman Mielke and H. Kappus, John Lorenzen, Robert G. Koerner, Elizabeth Kastner, G. L. Knoche, M. H. Seldelbach and William Fedderson, are complainants and appellants, and the Mascot Mining & Milling Company, Ltd., of Idaho, a corporation, and J. M.



tion as attorneys for the defendants, and by handing to and leaving a true and correct copy thereof with D. D. Mote and P. C. O'Malley personally at Pocatello, Idaho, in said District on the 8th day of April, A. D. 1922.

FRANK M. BRESHEARS,  
*U. S. Marshal.*  
By G. W. Sutherland,  
*Deputy.*

7—279

Endorsed: Filed April 10, 1922,

W. D. McREYNOLDS, Clerk.

By Pearl E. Zanger, Deputy.

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(Title of Court and Cause.)

CLERK'S CERTIFICATE.

I, W. D. McReynolds, Clerk of the District Court of the United States for the District of Idaho, do hereby certify that the above and foregoing transcript of pages numbered from 1 to 96, inclusive, contains true and correct copies of that portion of the pleadings and proceedings in the above entitled cause as requested by the praecipe filed herein, and that the same constitute the transcript of the record herein upon appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that the cost of the record



herein amounts to the sum of \$130.95, and that the same has been paid by the appellant.

Witness my hand and the seal of said Court, affixed at Boise, Idaho, this 20th day of May, 1922.

W. D. McREYNOLDS,

*Clerk.*

(SEAL)

By Pearl E. Zanger,

*Deputy Clerk.*